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9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**
12

13 In re

14 PG&E CORPORATION

15 and
16

17 PACIFIC GAS AND ELECTRIC
18 COMPANY,

Debtors.

Case Nos. 19-30088 DM (Lead Case)
19-30089 DM

Chapter 11
Jointly Administered

- 19 ☐ Affects PG&E Corporation
20 ☐ Affects Pacific Gas and Electric Company
21 ☒ Affects both Debtors

22 * All papers shall be filed in the Lead Case
23 No. 19-30088 DM.

Date: September 24, 2019
Time: 9:30 a.m.
Place: Courtroom 17, 16th Floor
450 Golden Gate Avenue
San Francisco, California

DKT # 39

24
25 **STATUS CONFERENCE STATEMENT BY TURN AND JOINDER IN JOINT MOTION**
26 **OF THE OFFICIAL COMMITTEE OF TORT CLAIMANTS AND AD HOC COMMITTEE**
27 **OF SENIOR UNSECURED NOTEHOLDERS TO TERMINATE THE DEBTORS'**
28 **EXCLUSIVE PERIODS PURSUANT TO SECTION 1121(d)(1)**
OF THE BANKRUPTCY CODE

1 The Utility Reform Network (“TURN”) hereby (a) submits its status conference statement in
2 connection with the status conference currently on calendar for September 24, 2019, at 9:30 a.m. and
3 (b) joins in the Joint Motion of the Official Committee of Tort Claimants and Ad Hoc Committee of
4 Senior Unsecured Noteholders to Terminate Debtors’ Exclusive Periods Pursuant to Section
5 1121(d)(1) of the Bankruptcy Code [Dkt. #3940] (the “Joint Motion”) and supports entry of the
6 proposed order attached to that filing.

7 A. Commencement of Order Instituting Investigation Before CPUC

8 TURN wishes the Court to be aware that proceedings before the CPUC with regard to this
9 case and a plan of reorganization are about to commence. Attached here as Exhibit “A” is a copy of
10 the proposed Order Instituting Investigation on the Commission's Own Motion to Consider the
11 Ratemaking and Other Implications of a Proposed Plan for Resolution of Voluntary Case filed by
12 Pacific Gas and Electric Company Pursuant to Chapter 11 of the Bankruptcy Code, in the United
13 States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas
14 and Electric Corporation and Pacific Gas and Electric Company, Case No. 19-30088 (the “OII”).
15 This proposed OII is set for a vote before the CPUC on Thursday, September 26, 2019, two days
16 after this Court’s status conference.

17 The purpose of the OII is to provide an “opportunity to be heard and comment on any
18 California Public Utilities Commission (Commission) regulatory review resulting from a proposed
19 plan of reorganization (including any amendments) filed with the Commission, any proposed
20 settlement agreement resolving PG&E’s Chapter 11 case between PG&E and Commission staff filed
21 in connection with a plan, any regulatory approvals required pursuant to Public Utilities Code
22 Section 3292 in order for PG&E to become eligible to participate in the wildfire fund established
23 pursuant to Assembly Bill 1054 (AB) 1054, any other regulatory approvals required by AB 1054,
24 and any other matters that may need to be decided by this Commission in connection with a plan.”
25 In effect, the purpose is to provide a process and vehicle for CPUC approval, prior to the June 30,
26 2019 deadline, required for confirmation under Bankruptcy Code section 1129(a)(6).

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1 The scope of the proceeding shall include but not necessarily be limited to all issues raised in
2 the OII, including the following:

- 3 1. Whether it is reasonable to approve a proposed plan of reorganization
4 submitted by PG&E and PG&E Corp., and any related plan
5 amendments, or any other relevant plan of reorganization that may be
6 submitted for the Commission's approval, and any related proposed
7 settlement agreement or other documents, taking into consideration:
 - 8 a. The ratemaking implications of such proposed plan and
9 settlement agreement;
 - 10 b. Whether the proposed plan and settlement agreement provide
11 satisfactory resolution of claims for monetary fines or penalties
12 for PG&E's pre-petition conduct;
 - 13 c. Whether to approve a governance structure for the utility, and
14 the appropriate disposition of potential changes to PG&E's
15 corporate structure and authorizations to operate;
 - 16 d. Whether it is reasonable and appropriate for the Commission
17 to make any other approvals related to the confirmation and
18 implementation of the proposed plan; and
 - 19 e. Any other findings relevant for the Commission to approve a
20 proposed settlement agreement, including whether such
21 settlement is in the public interest.
- 22 2. Whether the Commission should make the following determinations
23 for a Commission-approved reorganization plan and other documents
24 resolving the insolvency proceeding:
 - 25 a. PG&E's governance structure resulting from the plan is
26 acceptable in light of PG&E's safety history, criminal
27 probation, recent financial condition, and other factors deemed
28 relevant by the Commission;
 - b. The plan is consistent with the state's climate goals pursuant to
the California Renewables Portfolio Standard Program and
related procurement requirements of the state;
 - c. The plan is neutral, on average, to PG&E's ratepayers; and
 - d. The plan recognizes the contributions of PG&E's ratepayers, if
any, to resolving the insolvency proceeding and compensates
them accordingly through mechanisms approved by the
Commission.

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2 B. The Plan Is Insufficiently Detailed to Allow CPUC to Do Its Job

3 The OII expressly states that “The current plan of reorganization is not sufficiently advanced
4 through the Bankruptcy Court process for the Commission to consider at this time ...” The failure
5 of the Debtors to offer a confirmable plan, given both the lack of detail and it being unconfirmable
6 owing to a number of legal objections raised and likely to be raised,¹ is unnecessarily infringing on
7 the time that the CPUC has to do its work.

8 The OII emphasizes the urgency to proceed quickly and provides the process for doing so:

9 The provisions of AB 1054 relating to PG&E’s eligibility
10 to participate in the wildfire fund as the going-forward
11 solution established by AB 1054 require a short turnaround
12 time for PG&E, the Bankruptcy Court, and the Commission
13 to review and approve a plan and other documents
14 resolving PG&E’s insolvency proceeding in order to meet
15 the June 30, 2020 statutory deadline. This proceeding will
16 move quickly particularly given our preliminary
determination that evidentiary hearings will be necessary.
Parties must be prepared to act on short deadlines and be as
cooperative and forthcoming as possible so we can meet
the legislative deadline for facilitating PG&E’s eligibility
to participate in the Wildfire Fund, consistent with due
process and our consideration of the issues.

17 C. The Plan’s Reliance on Wildfire Victim Recovery Bonds May Make It Infeasible.

18 The Plan’s funding and feasibility are at risk to the extent that it relies on Wildfire Victim
19 Recovery Bonds. Those Bonds are listed as part of the Plan Funding under paragraph 1.137. TURN
20 contends that such bonds put ratepayers at risk of increased rates in a manner that would violate AB

21 _____
22 ¹ TURN believes that the proposed plan is unconfirmable for reasons which include but are
23 not limited to the following: the Plan (a) provides for broad third-party releases impermissible under
24 applicable 9th Circuit law; (b) violates the absolute priority rule; (c) shows unfair discrimination in
25 treatment between similarly situated unsecured creditors assuming a cramdown takes place, (d)
26 impermissibly reserves the right to estimate claims after the effective date; (e) will not provide
27 dissenting creditors in impaired classes that to which they would be entitled in a liquidation pursuant
28 to Bankruptcy Code section 1129(a)(7)(a)(ii); and, (f) notwithstanding assurances in Debtor’s
Summary of the Plan, appears to abrogate sovereign immunity in violation of Bankruptcy Code
section 106 by proposing a plan with broad language purporting to discharge all claims relating to
prepetition conduct, whether or not such claims result from police or regulatory proceedings both
currently pending and potentially future proceedings before the CPUC.

1 1054. TURN will be making that objection before the CPUC, this Court, and in the legislative
2 arena.

3 The Court is doubtlessly aware that AB 235, the bill by which the tax-free Wildfire Victims
4 Recovery Bonds would be enabled, has not passed, and the 2019 legislative session has ended. AB
5 235 is unlikely to pass in the next legislative session in time for the Debtors to obtain the Private
6 Letter Ruling from the IRS required to rely on tax free Wildfire Victim Recovery Bonds as a source
7 of Plan Funding. The Debtors should, in its next iteration, propose a Plan which assumes that it will
8 acquire the funding needed to pay creditors and fire victims from sources other than the Wildfire
9 Victims Recovery Bonds.

10 D. Exclusivity Should Be Terminated

11 Based on the foregoing, TURN reiterates its support for a limited termination of exclusivity
12 on the terms set forth in the Joint Motion.

13 Dated: September 19, 2019

BINDER & MALTER, LLP

15 By: /s/ Robert G. Harris
16 Robert G. Harris

17 Attorneys for TURN, the Utility Reform Network
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